

**Executive Summary – Enforcement Matter – Case No. 44638**

**D & K Development Corp.**

**RN102287109**

**Docket No. 2012-1519-MWD-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

**Media:**

MWD

**Small Business:**

Yes

**Location(s) Where Violation(s) Occurred:**

Mayfair Addition, at 2700 Highway 1187, on the southwest corner of the intersection of Farm-to-Market ("FM") Road 1187 and Pershon Road, approximately three miles southwest of the intersection of FM Road 1187 and FM Road 731, Tarrant County

**Type of Operation:**

Domestic wastewater treatment plant

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** December 14, 2012

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$4,375

**Amount Deferred for Expedited Settlement:** \$0

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$4,375

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Average

Site/RN - Average

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2011

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D & K Development Corp.  
RN102287109  
Docket No. 2012-1519-MWD-E**

***Investigation Information***

**Complaint Date(s):** N/A  
**Complaint Information:** N/A  
**Date(s) of Investigation:** June 13, 2012  
**Date(s) of NOE(s):** June 27, 2012

***Violation Information***

Failed to comply with permitted effluent limits for carbonaceous biochemical oxygen demand, pH, and total suspended solids [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0013518001, Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 3].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

By March 31, 2012, Respondent repaired the blower, replaced the logic controller and returned to compliance with permitted effluent limits.

**Technical Requirements:**

N/A

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A  
**TCEQ Enforcement Coordinator:** Jeremy Escobar, Enforcement Division, Enforcement Team 3, MC R-14, (361) 825-3422; Debra Barber, Enforcement Division, MC 219, (512) 239-0412  
**TCEQ SEP Coordinator:** N/A  
**Respondent:** Dewey D. Drury, President, D & K Development Corp., P.O. Box 172081, Arlington, Texas 76003  
**Respondent's Attorney:** N/A



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

**TCEQ**

**DATES** **Assigned** 2-Jul-2012 **PCW** 26-Jul-2012 **Screening** 26-Jul-2012 **EPA Due**

## RESPONDENT/FACILITY INFORMATION

**Respondent** D & K Development Corp.  
**Reg. Ent. Ref. No.** RN102287109  
**Facility/Site Region** 4-Dallas/Fort Worth **Major/Minor Source** Minor

## CASE INFORMATION

**Enf./Case ID No.** 44638 **No. of Violations** 1  
**Docket No.** 2012-1519-MWD-E **Order Type** Findings  
**Media Program(s)** Water Quality **Government/Non-Profit** No  
**Multi-Media** **Enf. Coordinator** Jeremy Escobar  
**EC's Team** Enforcement Team 3  
**Admin. Penalty \$ Limit Minimum** \$0 **Maximum** \$25,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** \$2,500

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History** 100.0% Enhancement **Subtotals 2, 3, & 7** \$2,500

**Notes** Enhancement for 29 months of self-reported effluent violations, five NOV with same/similar violations, one NOV with dissimilar violations, and one order without denial of liability.

**Culpability** No 0.0% Enhancement **Subtotal 4** \$0

**Notes** The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** \$625

**Economic Benefit** 0.0% Enhancement\* **Subtotal 6** \$0

Total EB Amounts \$277  
 Approx. Cost of Compliance \$13,287  
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** \$4,375

**OTHER FACTORS AS JUSTICE MAY REQUIRE** 0.0% **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

**Final Penalty Amount** \$4,375

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** \$4,375

**DEFERRAL** 0.0% Reduction **Adjustment** \$0

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes**

No deferral is recommended for Findings Orders.

**PAYABLE PENALTY** \$4,375

Screening Date 26-Jul-2012

Docket No. 2012-1519-MWD-E

PCW

Respondent D &amp; K Development Corp.

Policy Revision 3 (September 2011)

Case ID No. 44638

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102287109

Media [Statute] Water Quality

Enf. Coordinator Jeremy Escobar

**Compliance History Worksheet**

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	34	170%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 197%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

**Adjustment Percentage (Subtotal 3)** 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

**Adjustment Percentage (Subtotal 7)** 0%

## &gt;&gt; Compliance History Summary

**Compliance History Notes**

Enhancement for 29 months of self-reported effluent violations, five NOVs with same/similar violations, one NOV with dissimilar violations, and one order without denial of liability.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 197%

## &gt;&gt; Final Compliance History Adjustment

**Final Adjustment Percentage \*capped at 100%** 100%

Screening Date 26-Jul-2012

Docket No. 2012-1519-MWD-E

PCW

Respondent D &amp; K Development Corp.

Policy Revision 3 (September 2011)

Case ID No. 44638

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102287109

Media [Statute] Water Quality

Enf. Coordinator Jeremy Escobar

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0013518001, Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 3

Violation Description

Failed to comply with permitted effluent limits, as documented in a record review conducted on June 13, 2012, and shown in the attached table.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 5.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

A simplified model was used to evaluate carbonaceous biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids and pH were also considered. As a result of these discharges, human health or the environment has been exposed to an insignificant amount of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$23,750

\$1,250

## Violation Events

Number of Violation Events 2

121 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

Two quarterly events are recommended.

## Good Faith Efforts to Comply

25.0% Reduction

\$625

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

(mark with x)

Notes

The Respondent returned to compliance with permitted effluent limits by March 31, 2012.

Violation Subtotal \$1,875

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$277

Violation Final Penalty Total \$4,375

This violation Final Assessed Penalty (adjusted for limits) \$4,375

# Economic Benefit Worksheet

**Respondent** D & K Development Corp.  
**Case ID No.** 44638  
**Reg. Ent. Reference No.** RN102287109  
**Media** Water Quality  
**Violation No.** 1

**Percent Interest** 5.0  
**Years of Depreciation** 15

**Item Cost** **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**  
**Item Description** No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$13,287	31-Oct-2011	31-Mar-2012	0.42	\$277	n/a	\$277

**Notes for DELAYED costs**

Cost to repair a blower and replace the plant logic controller and return to compliance with permitted effluent limits. The date required is the date of the first non-compliance and the final date is the compliance date.

## Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**

\$13,287

**TOTAL**

\$277

D & K Development Corp.  
Texas Pollutant Discharge Elimination System Permit No. WQ0013518001  
Docket No. 2012-1519-MWD-E; Case No. 44638

EFFLUENT VIOLATION TABLE				
Months	CBOD Daily Average Concentration	pH Maximum	Chlorine Residual Minimum Concentration	TSS Daily Average Concentration
	Limit = 10 mg/L	Limit = 9 SU	Limit = 1 mg/L	Limit = 15 mg/L
October 2011	c	c	c	16.5
November 2011	11.5	c	c	16.75
December 2011	12.75	c	c	18.75
January 2012	c	c	c	18.8
February 2012	c	9.4	c	17

mg/L = milligrams per liter      SU = standard units  
CBOD = carbonaceous biochemical oxygen demand  
TSS = total suspended solids

c = compliant





# Compliance History Report

Customer/Respondent/Owner-Operator:	CN600677470	D & K Development Corp.	Classification: AVERAGE	Rating: 14.36
Regulated Entity:	RN102287109	MAYFAIR ADDITION	Classification: AVERAGE	Site Rating: 14.36
ID Number(s):	WASTEWATER	PERMIT	WQ0013518001	
	WASTEWATER	EPA ID	TX0105872	
	WASTEWATER	PERMIT	WQ0013518001	
	WASTEWATER LICENSING	LICENSE	WQ0013518001	
Location:	Located at 2700 Highway 1187, on the southwest corner of the intersection of Farm-to-Market Road 1187 and Pershon Road, approximately three miles southwest of the intersection of Farm-to-Market Road 1187 and Farm-to-Market Road 731, Tarrant County, Texas			
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	August 01, 2012			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	July 26, 2007 to July 26, 2012			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Jeremy Escobar	Phone:	825-3422	

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? YES
2. Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3. If YES, who is the current owner/operator? N/A
4. If YES, who was/were the prior owner(s)/operator(s)? N/A
5. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 Repeat Violator: NO

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
 

Effective Date: 04/11/2010	ADMINORDER 2009-0143-MWD-E
Classification: Moderate	
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)	
30 TAC Chapter 305, SubChapter F 305.125(1)	
Rqmt Prov: Effluent Limits PERMIT	
Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.	
Classification: Moderate	
Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)	
Rqmt Prov: Sludge Reporting Requirements PERMIT	
Description: Failure to submit sludge monitoring results at the intervals specified in the permit as documented by a TCEQ record review.	
- B. Any criminal convictions of the state of Texas and the federal government.
 

N/A
- C. Chronic excessive emissions events.
 

N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
 

1	03/16/2012	(1005070)
2	04/23/2012	(1011626)
3	06/28/2012	(1013388)
4	05/21/2012	(1018007)
5	01/20/2012	(1018008)

6	07/27/2007	(600314)
7	09/17/2007	(600315)
8	02/04/2008	(613404)
9	10/09/2007	(628856)
10	11/05/2007	(628857)
11	11/26/2007	(628858)
12	03/24/2008	(636469)
13	02/11/2008	(676544)
14	02/06/2008	(676545)
15	06/30/2008	(684559)
16	03/03/2008	(695018)
17	03/20/2008	(695019)
18	05/02/2008	(695020)
19	05/30/2008	(695021)
20	01/23/2009	(708795)
21	06/25/2008	(716525)
22	07/21/2008	(716526)
23	08/20/2008	(716527)
24	09/26/2008	(732006)
25	12/15/2008	(732007)
26	11/17/2008	(732008)
27	12/19/2008	(732009)
28	04/21/2009	(738299)
29	05/06/2009	(744832)
30	02/24/2009	(755377)
31	02/03/2009	(755378)
32	04/23/2010	(766840)
33	03/25/2009	(772449)
34	04/20/2009	(772450)
35	05/15/2009	(772451)
36	02/22/2010	(817393)
37	06/19/2009	(817394)
38	07/20/2009	(817395)
39	08/17/2009	(817396)
40	09/22/2009	(817397)
41	10/19/2009	(817398)
42	11/23/2009	(817399)
43	12/18/2009	(817400)
44	01/21/2010	(817401)
45	03/29/2010	(835333)
46	04/26/2010	(835334)
47	05/20/2010	(835335)
48	08/13/2010	(842612)
49	06/24/2010	(847631)
50	06/30/2010	(862035)
51	08/23/2010	(868612)
52	10/21/2010	(870875)
53	09/23/2010	(875505)
54	10/27/2010	(883046)
55	01/14/2011	(887640)
56	11/29/2010	(889465)

57	02/08/2011	(894969)
58	12/27/2010	(897828)
59	01/31/2011	(903719)
60	03/04/2011	(917878)
61	03/31/2011	(917879)
62	05/19/2011	(921393)
63	05/02/2011	(939574)
64	05/24/2011	(939575)
65	06/27/2011	(946984)
66	07/18/2011	(954250)
67	10/05/2011	(958527)
68	08/22/2011	(960826)
69	09/21/2011	(966923)
70	10/24/2011	(972893)
71	11/21/2011	(979027)
72	12/19/2011	(985862)
73	04/23/2012	(993920)
74	02/21/2012	(999529)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	07/31/2007	(600315)	CN600677470		
Self Report?	YES			Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)				
Description:	Failure to meet the limit for one or more permit parameter				

Date:	08/31/2007	(628856)	CN600677470		
Self Report?	YES			Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)				
Description:	Failure to meet the limit for one or more permit parameter				

Date:	09/30/2007	(628857)	CN600677470		
Self Report?	YES			Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)				
Description:	Failure to meet the limit for one or more permit parameter				

Date:	10/31/2007	(628858)	CN600677470		
Self Report?	YES			Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)				
Description:	Failure to meet the limit for one or more permit parameter				

Date:	11/30/2007	(676544)	CN600677470		
Self Report?	YES			Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)				
Description:	Failure to meet the limit for one or more permit parameter				

Date:	02/01/2008	(613404)	CN600677470		
Self Report?	NO			Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 2D TWC Chapter 26, SubChapter A 26.121(a)(1) 2D TWC Chapter 26, SubChapter A 26.121(a)(3) 2D TWC Chapter 26, SubChapter A 26.121(b) 2D TWC Chapter 26, SubChapter A 26.121(c) 2D TWC Chapter 26, SubChapter A 26.121(d) 2D TWC Chapter 26, SubChapter A 26.121(e)				

	30 TAC Chapter 305, SubChapter F 305.125(4)		
	30 TAC Chapter 305, SubChapter F 305.125(5)		
	TWC Chapter 26 26.121		
	TWC Chapter 26 26.121(a)(2)		
Description:	Failure to prevent the unauthorized discharge of wastewater from the collection system.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Effluent Limitation and Monitoring Req. PERMIT		
Description:	Failure to maintain compliance with the permitted effluent limits for DO, CBOD5, NH3N, and TSS.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Monitoring and Reporting Req PERMIT		
Description:	Failure to provide notification of effluent permit limit violations.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 317 317.4(a)(8)		
Description:	Failure to have the RPZ backflow prevention device tested annually.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Sludge Provisions, Section III PERMIT		
Description:	Failure to maintain the required sludge management records.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(11)(B) 30 TAC Chapter 305, SubChapter F 305.125(11)(C) Sludge Provisions PERMIT		
Description:	Failure to submit the year 2005-2006 and 2006-2007 annual sludge reports.		
Date	02/29/2008	(695019)	CN600677470
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	03/31/2008	(695020)	CN600677470
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	04/30/2008	(695021)	CN600677470
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	05/31/2008	(716525)	CN600677470
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	06/30/2008	(716526)	CN600677470
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	07/31/2008	(716527)	CN600677470
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		

Description: Failure to meet the limit for one or more permit parameter

Date 08/31/2008 (732006) CN600677470

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date 09/30/2008 (732007) CN600677470

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date 10/31/2008 (732008) CN600677470

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date 11/30/2008 (732009) CN600677470

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date 12/31/2008 (755378) CN600677470

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date 04/21/2009 (738299) CN600677470

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
WQ13518-001 PERMIT

Description: Failure to comply with effluent permit limits for TSS, CBOD5 and NH3N.

Date 06/30/2010 (862035) CN600677470

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date 07/31/2010 (868612) CN600677470

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date 08/13/2010 (842612) CN600677470

Self Report? NO Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
2D TWC Chapter 26, SubChapter A 26.121(a)(1)  
2D TWC Chapter 26, SubChapter A 26.121(a)(3)  
2D TWC Chapter 26, SubChapter A 26.121(b)  
2D TWC Chapter 26, SubChapter A 26.121(c)  
2D TWC Chapter 26, SubChapter A 26.121(d)  
2D TWC Chapter 26, SubChapter A 26.121(e)  
30 TAC Chapter 305, SubChapter F 305.125(4)

	30 TAC Chapter 305, SubChapter F 305.125(5)		
	TWC Chapter 26 26.121		
	TWC Chapter 26 26.121(a)(2)		
Description:	Failure to prevent the unauthorized discharge of wastewater from the collection system.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
	Effluent Limitations and Monitoring Req. PERMIT		
Description:	Failure to maintain compliance with permitted effluent limits.		
Date	08/20/2010	(848681)	CN600677470
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to discharge at an approved outfall.		
Date	08/31/2010	(875505)	CN600677470
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)		
	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	09/30/2010	(883046)	CN600677470
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)		
	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	10/31/2010	(889465)	CN600677470
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)		
	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	11/30/2010	(897828)	CN600677470
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)		
	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	12/31/2010	(903719)	CN600677470
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)		
	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	03/31/2011	(939574)	CN600677470
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)		
	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	10/31/2011	(979027)	CN600677470
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)		
	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	11/30/2011	(985862)	CN600677470
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)		
	30 TAC Chapter 305, SubChapter F 305.125(1)		

Description: Failure to meet the limit for one or more permit parameter

Date 12/31/2011 (1018008) CN600677470  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

Date 01/06/2012 (976492) CN600677470  
Self Report? NO Classification: Moderate  
Citation: TWC Chapter 26 26.121  
Description: Failure to prevent unauthorized discharges from the collection system.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
Permit WQ0013518-001 PERMIT  
Description: Failure to ensure lift stations meet TCEQ design requirements.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)  
Description: Failure to comply with the unauthorized discharge reporting requirements.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 30, SubChapter J 30.350(n)  
Description: Failure to inspect the collection system daily as required.

Date 01/31/2012 (999529) CN600677470  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

Date 02/29/2012 (1005070) CN600677470  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

Date 04/25/2012 (993920) CN600677470  
Self Report? NO Classification: Moderate  
Citation: TWC Chapter 26 26.121  
Description: Failure to prevent unauthorized discharges from the collection system.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)  
Permit WQ0013518-001 PERMIT  
Description: Failure to ensure lift stations meet TCEQ design requirements.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 30, SubChapter J 30.350(n)  
Description: Failure to inspect the collection system daily as required.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
WQ0013518-001 PERMIT  
Description: Failure to comply with the self-monitoring permit limitations.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
WQ0013518-001 PERMIT  
Description: Failure to comply with the permit effluent limitations for total chlorine residual during the investigation.  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 319, SubChapter A 319.7(e)  
WQ0013518-001 PERMIT  
Description: Failure to accurately report data on DMRs.  
Self Report? NO Classification: Minor  
Citation: 30 TAC Chapter 305, SubChapter D 305.65  
WQ0013518 001 PERMIT  
Description: Failure to submit a permit renewal application within six months of permit expiration.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
D & K DEVELOPMENT CORP.  
RN102287109**

**§        BEFORE THE  
§  
§        TEXAS COMMISSION ON  
§  
§        ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2012-1519-MWD-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding D & K Development Corp. ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

### **I. FINDINGS OF FACT**

1. The Respondent owns and operates a domestic wastewater treatment plant at 2700 Highway 1187, on the southwest corner of the intersection of Farm-to-Market Road 1187 and Pershon Road, approximately three miles southwest of the intersection of Farm-to-Market Road 1187 and Farm-to-Market Road 731 in Tarrant County, Texas (the "Facility").

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During a record review on June 13, 2012, TCEQ staff documented the following effluent exceedances from monthly discharge monitoring reports:

EFFLUENT VIOLATION TABLE				
Months	CBOD Daily Average Concentration	pH Maximum	Chlorine Residual Minimum Concentration	TSS Daily Average Concentration
	Limit = 10 mg/L	Limit = 9 SU	Limit = 1 mg/L	Limit = 15 mg/L
October 2011	c	c	c	16.5
November 2011	11.5	c	c	16.75
December 2011	12.75	c	c	18.75
January 2012	c	c	c	18.8
February 2012	c	9.4	c	17

mg/L = milligrams per liter      SU = standard units      c = compliant  
CBOD = carbonaceous biochemical oxygen demand  
TSS = total suspended solids

4. The Respondent received notice of the violations on July 2, 2012.
5. The Executive Director recognizes that by March 31, 2012, the Respondent repaired the blower, replaced the logic controller and returned to compliance with permitted effluent limits.

## II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0013518001, Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 3.

3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Four Thousand Three Hundred Seventy-Five Dollars (\$4,375) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Four Thousand Three Hundred Seventy-Five Dollar (\$4,375) administrative penalty.

### **III. ORDERING PROVISIONS**

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Four Thousand Three Hundred Seventy-Five Dollars (\$4,375) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: D & K Development Corp., Docket No. 2012-1519-MWD-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
4. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1)

enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

6. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
7. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

*Barry Zane Jr.*  
For the Executive Director

2/18/13  
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of D & K Development Corp. I am authorized to agree to the attached Agreed Order on behalf of D & K Development Corp., and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, D & K Development Corp. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions;
- and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

*Dewey D. Drury*  
Signature

October 5, 2012  
Date

Dewey D. Drury  
Name (Printed or typed)  
Authorized Representative of  
D & K Development Corp.

President  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section III, Paragraph 1 of this Agreed Order.